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## **REMARKS**

The following are applicant's response to issues raised in the Office Action.

### **Specification Objections:**

The specification was objected to because a less than complete description of the plant was presented. Accordingly, the specification has been amended along the lines of the examiner's suggestions to more clearly and completely describe the plant. It is respectfully requested that the specification objections be withdrawn.

### **Rejection under 35 U.S.C. 112:**

The claim was rejected under 35 USC 112 as not being supported by a clear botanical description. Accordingly, the botanical description has been amended to more clearly describe the plant. It is respectfully requested that the 112 rejection be withdrawn.

### **Potential issue under 35 U.S.C. 102:**

As indicated on the enclosed letter from the inventor, the present plant was first sold less than 1 year from the date of this application.

### **Request for information under 37 CFR 1.105:**

In response to the request for information, the following are enclosed:

1. A letter from the inventor showing the first date of sale to be September 27, 2002.
2. New Zealand PBR application, denomination and grant.

The claimed plant is now believed to be in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark P. Bourgeois".

Mark P. Bourgeois  
Reg. No. 37,782



PLANT VARIETY RIGHTS OFFICE  
NEW ZEALAND

GRANT OF PLANT VARIETY RIGHTS

No. 1515

Pursuant to the Plant Variety Rights Act 1987 a grant of  
PLANT VARIETY RIGHTS is hereby made to

E.K. HALL

in respect of the lavender variety

THUMBELINA LEIGH

for a term of 23 years from the

4th day of May 1999



C.J. Barnaby  
For Commissioner of Plant Variety Rights

**PLANT VARIETY RIGHTS OFFICE  
NEW ZEALAND**

**OBJECTIVE DESCRIPTION OF VARIETY**

**LAVENDER**  
(*Lavandula L.*)

Name of applicant: E. K. Hall

Variety name or temporary denomination: Thumbleina Leigh

PVRO reference number (office use only): LAV016

Location test results presented from: West Melton, Canterbury

Year(s) of test: 1997 / 98      1998 / 99

Age of test plants: -

Prepared by: C Barnaby

1. Place the appropriate number that describes the varietal character in the boxes below.
2. Measurements should be based on the means of at least 15 typical plant parts from a minimum of 6 plants.
3. + see explanatory notes and diagrams.

**PLANT**

Size (in winter) -

1 = very small	3 = small	5 = medium
7 = large	9 = very large	

Shape -

1 = narrow bushy	2 = bushy	3 = rounded
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Colour of mature foliage -

1 = light green	2 = medium green	3 = dark green
4 = grey green		

Growth habit (in full flower) -

1 = upright	2 = spreading	
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Density -

3 = open	5 = medium	7 = dense
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<input checked="" type="checkbox"/>	Shape -			
- 4	1 = conic	2 = truncate conic	3 = cylindric	
	4 = conic fusiform			
<input checked="" type="checkbox"/>	Distance between whorls (excluding first whorl) -			
	3 = short	5 = medium	7 = long	
<input checked="" type="checkbox"/>	Number of whorls -			
5	3 = few	5 = medium	7 = many	
<input checked="" type="checkbox"/>	Ratio length/number of whorls -			
4	3 = small	5 = medium	7 = long	
<input checked="" type="checkbox"/>	Distance between first and second whorl -			
	3 = short	5 = medium	7 = long	
<input checked="" type="checkbox"/>	Number of flowers per spike -			
4	3 = few	5 = medium	7 = many	
<input checked="" type="checkbox"/>	Number of flowers on terminal whorl -			
5	3 = few	5 = medium	7 = many	
<input checked="" type="checkbox"/>	Width of fertile bracts -			
5	3 = narrow	5 = medium	7 = wide	
<input checked="" type="checkbox"/>	Colour of fertile bracts -			
2	1 = white	2 = green	3 = purple	
	4 = red purple			
<input checked="" type="checkbox"/>	Presence of bracteole when flowering -			
5	1 = absent	5 = sometimes present	7 = always present	
<input checked="" type="checkbox"/>	Length of bracteole -			
3	3 = short	5 = medium	7 = long	
<input checked="" type="checkbox"/>	Infertile bracts -			
1	1 = absent	9 = present		
Colour of infertile bracts (RHS Colour Chart): _____				
<input checked="" type="checkbox"/>	Length of infertile bracts -			
	3 = short	5 = medium	7 = long	

Shape of infertile bracts -

1 = oblong	2 = obovate	3 = oblanceolate
4 = elliptic		

Undulation of margin of infertile bracts -

3 = weak	5 = medium	7 = strong
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**FLOWER**

Colour of calyx -

1 = greenish	2 = violet	3 = greyish
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Colour of corolla -

1 = light blue	2 = medium blue	3 = dark blue
4 = white	5 = pink	6 = purple

Pubescence of calyx -

3 = weak	5 = medium	7 = strong
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Time of flowering -

3 = early	5 = medium	7 = late
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Time of beginning of vegetative growth -

3 = early	5 = medium	7 = late
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**DISEASES AND PESTS**

Note resistance or susceptibility to specific diseases and pests.

N/A

### ADDITIONAL DESCRIPTION

Describe any characters that have not been described on the objective description form or whose description has not been accurately conveyed. Where possible compare with other known varieties and describe how it may be distinguished from these.

Leaf - medium length, narrow to medium width.

On some stems the first whorl is a long distance from the true spike. This occurs in a minority of samples.

Similar to 'Lady' - differs in: plant size (overall)  
stem green colouration

spike shape  
calyx colouration  
distance between 1st and 2nd whorls  
length of spike

'Lady' has an overall larger plant size, a darker green stem colour, a more cylindric spike shape and a medium distance between 1st and 2nd whorls. Not all spikes show this distance between first and second whorls, but this medium distance is observed more frequently than is observed in 'Thimbelina Lx'. The length of spike for both varieties is short with 'Thimbelina Lx' being shorter ( $\bar{x}=22\text{mm}$ ) than 'Lady' ( $\bar{x}=27\text{mm}$ ). Both varieties have a violet calyx with 'Lady' having a blue violet colouration and TL a purple uniformity and stability violet colouration.

6 plants observed. No off types observed.



# LeighVander Cottage

Specializing in unique Lavender Products

The Village, R.R.1, Wairau Valley, Marlborough, New Zealand

Elsie & Brian Hall

Ph: 03 5722851 Fax: 03 5722841

21<sup>st</sup> January 2004.

*Lavandula angustifolia Thunbeliana Leigh*.

My plant *Lavandula angustifolia Thunbeliana Leigh* was not made available for sale to the public until Spring 2002. 27 September.

The reason for this being so was because I originally thought I was going to supply and market the plant myself. I was in no hurry for this to happen.

As it is a miniature variety and as a small owner/operator of my business I do not have propagating houses and all bulking up of the plant and propagating is done naturally and by myself.

After two years had passed I realized I did not have the expertise required in the areas needed for my plant to reach the markets in NZ. A change of direction has resulted in the plant finally reaching this area.

During all the trial and bulking up of *Thunbelia*, at all times it was closely monitored and guarded at our property in Wairau Valley. It was never

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made available to any persons or for sale.  
It was not available for sale anywhere  
until the release in the Spring of 2002.

Yours faithfully,

Elsie Hall